



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

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Proposed Decision Record for DOI-BLM-CAN070-2013-0021-EA: *Livestock Grazing Authorization and Wild Horse Appropriate Management Level Establishment Massacre Lakes Allotment and Herd Management Area*

BACKGROUND INFORMATION

The Massacre Lakes Allotment is located in northwestern Washoe County Nevada, and includes approximately 44,480 acres of public and 2,410 acres of private lands; elevation ranges from 4,400 to 7,100 feet (see Map 1 in the EA).

The 39,888 acre Massacre Lakes Herd Management Area (HMA) lies entirely within the boundaries of the Massacre Lakes Allotment. The Appropriate Management Level (AML) for the HMA was estimated at 25 to 35 wild horses in the Surprise Resource Management Plan (RMP, BLM 2008) but is being formally established based on resource monitoring data within this process.

The Allotment also includes portions of the Massacre Rim Wilderness Study Area (WSA) (31,080 acres of the northern portion of the Massacre Lakes Allotment). The 2008 RMP designated portions of the Massacre Rim WSA as an Area of Critical Environmental Concern (ACEC). The ACEC was designated to provide special management actions to the important cultural resources within the ACEC area. The WSA and ACEC are located in the northern portion of the allotment. The southern portion of the allotment includes 3,815 acres of the Black Rock Desert-High Rock Canyon Emigrant Trails National Conservation Area (NCA).

The expired livestock grazing permit for the Massacre Lakes Allotment authorized up to 582 cattle from April 16 to September 30 annually, for 3,215 Active AUMs.

The purpose of the action is to consider whether to reauthorize livestock grazing on the Massacre Lakes Allotment and to establish an AML for wild horses in the Massacre Lakes HMA.

The current livestock grazing permit issued under the Appropriations Act requires that all Terms and Conditions would remain the same as the expired permit until such time that the permit is “fully processed.” The grazing permit renewal process requires that BLM determine whether current permitted grazing use conforms to the Surprise and NCA RMPs and the Standards for Land Health and Guidelines for Livestock Management (Standards & Guidelines determination). If current management does not conform to these mandates, then alternatives would be developed and analyzed to meet these requirements, along with any alternatives raised during scoping.

The Land Health Assessment (LHA) and Determination for the Allotment were completed in April 2010. The Massacre Lakes Allotment LHA found the upland soils standard was not met and not progressing towards being met. The stream health standard is not applicable and the water quality standard was not assessed. The riparian/wetland standard is not met but progressing towards being met, and the biodiversity standard is not met and not progressing towards being met. Current permitted livestock grazing and wild horse use are considered contributing factors in failure to meet the standards.

DECISION

It is my decision to implement the Proposed Action Alternative: *Reduced Stocking Rate, Rest-Rotation/Deferred Use & 25 – 45 Wild Horse AML* including the adaptive management approach that was included in the EA under **Actions Common to All Alternatives**. One action that was part of the Proposed Action Alternative in the EA, the 17.2 acre exclosure proposed for Sagehen Spring, is not included in this decision for reasons discussed below.

A Finding of No Significant Impact (FONSI) found the Proposed Action analyzed in DOI-BLM-CAN070-2013-0021-EA did not constitute a major Federal action that will adversely impact the quality of the human environment. Therefore, an EIS is unnecessary and will not be prepared.

The decision authorizes cattle grazing on the Massacre Lakes Allotment under a 10-year livestock grazing permit and establishes an Appropriate Management Level for wild horses. The livestock grazing permit authorizes 150 cattle for two weeks, that increase to a maximum of 450 cattle for an additional 3.5 months, for a total of 1,693 AUMs of permitted livestock use. This would be an overall reduction in authorized livestock grazing of 47 percent from the current permit. Terms and conditions, including allotment-specific short- and long-term objectives, monitoring protocols, and an adaptive management system for adjusting authorized AUMs are included to ensure grazing use conforms to the applicable RMPs and Land Health Standards.

The wild horse AML is 25 to 45 head to facilitate progress towards achieving rangeland health standards within the HMA. The AML results in a forage allocation to wild horses of 300 to 540 AUMs per year.

1. Livestock Grazing Management

Mandatory terms and conditions under the Proposed Action are displayed in Table 1:

Table 1 Mandatory Terms and Conditions

Allotment	Livestock		Grazing Period		% Public Land	AUMs			
	Number	Kind	Begin	End		Active	Suspended	Temporary Suspended ¹	Total
Massacre Lakes	150 450	Cattle	5/15 5/30	5/29 9/17	100	1,693	803	1,522	4,018

The grazing system includes a two-year cycle of rest rotation and deferred use (see Table 2 below and Map 7 in the EA for a schematic of the proposed grazing system). The maximum allowable utilization level on key species is 40% as determined by the key forage plant methodology (Guideline #16) for all pastures in the Massacre Lakes Allotment. Each pasture would be managed individually to address specific resource concerns:

Sand Spring Pasture

In Year 1 of each 2-year cycle, the pasture would be used early in the season, from 5/15 to 6/30. Cattle numbers would increase from 150 to 450 after 5/30. In Year 2, the pasture would receive complete rest from livestock use.

Lake Field

In Year 1, this pasture would receive complete rest from livestock use. Trailing would be allowed to move livestock through this pasture from the Sand Spring to the Juniper Pasture. In Year 2, this pasture would be used early in the season, from 5/15 to 6/30, in conjunction with the East Seeding. Cattle numbers would increase from 150 to 450 after 5/30.

East Seeding

In Year 1, this pasture would receive complete rest from livestock use. Trailing would be allowed to move livestock through this pasture from the Sand Spring to the Juniper Pasture. In Year 2, this pasture would be used early in the season, from 5/15 to 6/30. Since the East Seeding Pasture has the smallest acreage, it would be used in conjunction with the Lake Field to relieve grazing pressures.

Juniper Pasture

This pasture would be used each year after seed ripe of native perennial grasses, from 7/1 to 8/24.

West Seeding

This pasture would be deferred each year until 8/25 to be used for up to 23 days. This would allow the permittee to have a pasture to gather cattle into at the end of the grazing season.

¹ Land Health Guideline 16- reduction in permitted use will be held in suspension until land health has recovered to an extent that all or part of the suspended use can be restored (Land Health Standards & Guideline, Appendix 1: Implementation, Application of the Guidelines).

Table 2 Pasture Management under the Proposed Action

Pasture	Year 1			Year 2		
	No. of Livestock	Use Dates	AUMs	No. of Livestock	Use Dates	AUMs
Sand Spring	150C 450C	5/15 – 5/29 5/30 – 6/30	74 474	REST		
East Seeding & Lake Field	REST			150C 450C	5/15 – 5/29 5/30 – 6/30	74 474
Juniper	450C	7/1 – 8/24	805	450C	7/1 – 8/24	805
West	450C	8/25 – 9/17	340	450C	8/25 – 9/17	340
Total			1,693	Total 1,693		

a. Other Livestock Grazing Terms and Conditions

The following terms and conditions would be a requirement of the grazing permit:

1. Grazing use offered or authorized by BLM is subject to all provisions of the grazing regulations (43 CFR Parts 4100) and other applicable law and regulation. Grazing authorizations may be modified in accordance with regulation to attain progress towards achieving rangeland health standards (subpart 4180.1 and 4180.2 Fundamentals of Rangeland Health and Standards and Guidelines for Grazing Administration).
2. All grazing use will be in accordance with the Field Manager's Final Decision. All other past documents governing livestock use are superseded.
3. Billing will be based on actual use reports submitted 15 days following the last authorized take off date for the permit. If actual use reports are not submitted, the permittee may be financially liable and billed for their full permitted active use and actual use billing may be revoked.
4. A pre-season annual operating meeting will be held with the permittee to discuss previous years use and document current years grazing schedule. Livestock may not be turned out before this meeting has been conducted and without prior written approval from the authorized officer.
5. The scheduled time and period of authorization in each pasture cannot be exceeded without prior approval from the authorized officer. Moving livestock between pastures could occur within a 10 day period beginning five days prior to the scheduled move date.
6. Additional adjustments in livestock use may be required by BLM annually based on utilization, drought, water availability or other conditions.
7. Salt and mineral supplements may be used in the allotment. These supplements must not be located closer than ¼ mile from any natural or artificial water source, archaeological site, aspen stand, riparian area or 0.6th of a mile of an active sage-grouse lek during the breeding

season. A map of the allotment showing areas where supplements could be placed within the allotment will be provided to the permittee.

8. Maintenance of all range improvements assigned to the permittee must be maintained prior to livestock turnout and inspected periodically throughout the scheduled use period to ensure livestock are restricted to those areas they are scheduled to be in. All required fence maintenance must be completed annually, even if the permit is not used. Failure to complete required fence maintenance may result in temporary or permanent suspension of the grazing authorization.
9. Maximum allowable use for key upland native and seeded grass species is 40% in all use areas and pastures as measured by approved BLM utilization monitoring protocol as contained in Interagency Technical Reference 1734-3, 1996.
10. Permitted livestock AUMs will be reevaluated on a four-year cycle; if short-term objectives are not being met after four years at the permitted grazing use, authorized AUMs for the next cycle will be adjusted based on the desired stocking rate formula (BLM Technical Reference 4400-7, 1985), using actual use and utilization data.
11. If utilization exceeds 40% by livestock in any pasture, use in the pasture will be adjusted using the Desired Stocking Level formula (BLM Technical Reference 4400-7, 1985); if utilization exceeds 60% the pasture will be rested for the following scheduled season of use. If 20% utilization is exceeded in a pasture that is scheduled for rest, that pasture will be rested the following scheduled season of use. Adjustments related to the Juniper Pasture will be made taking cattle and wild horse use into consideration.
12. Stubble height will not be less than four inches on current year's herbaceous riparian growth at any time during the growing season (or by the end of the growing season) at perennial springs within the allotment; key species include sedges and rushes.
13. Livestock use at Alkaline Meadows would not exceed a four inch stubble height at the end of the grazing season.
14. Permittee is responsible for determining when annual allowable use will be reached and for moving livestock into the next scheduled use area or off the allotment. Permittee is advised that allowable use may be reached before the scheduled move date and should act accordingly. Adjustments in pasture use or livestock numbers resulting from mid-season utilization monitoring that substantially differs from the use scheduled during the preseason meeting must be communicated to BLM within 7 days of the change. BLM will monitor the permittee's annual performance in meeting utilization objectives at the end of the grazing season.

15. On Year 1 of the grazing schedule cattle must be trailed from the Sand Spring Pasture to the Juniper Pasture. On Year 2 of the schedule, cattle must be trailed from the Lake Field and East Seeding to the Juniper Pasture. Gates between the Juniper Pasture and West Seeding may be opened (no more than five days prior) to facilitate livestock movement to the next scheduled use area if the permittee determines utilization levels are approached or exceeded.
16. The BLM will coordinate with the permittee to ensure that livestock are not turned out within 0.6th of a mile of any active sage-grouse lek.
17. No livestock grazing is authorized within Tuffy, Indian, Biebe, Sand Spring and Post Springs fenced exclosures designed to improve riparian and wildlife habitat or protect cultural resources.

b. Range Improvement Project

A water storage tank would be installed at Sand Spring Well in the Sand Spring Pasture to improve water availability and livestock distribution.

Standard Operating Procedures for construction of range improvement projects can be found in Appendix B of the EA. Barbed wire fences would be constructed to meet BLM fencing specifications for wildlife passage.

c. Livestock Trailing Through the Allotment

Livestock trailing will be authorized through the Massacre Lakes Allotment along Nevada Road 8A. Water troughs and holding fields at Lower Massacre Well #1 and Nelson Well may be used to water and feed cattle for no more than one day/night. Livestock operators trailing through the Massacre Lakes Allotment will be required to notify BLM when trailing will occur.

d. Monitoring

There are two types of monitoring, compliance and effectiveness. Compliance monitoring evaluates generally short-term issues relating to whether or not actions are being implemented and if they accomplish their purpose. Effectiveness monitoring is used to determine whether the actions implemented have changed resource conditions in a manner leading to meeting the objectives and successfully addressing the issues. All monitoring would be performed in accordance with BLM policy following protocols from BLM approved manuals and technical references. In order to implement a successful monitoring system the following actions need to be completed prior to the 2015 grazing season in coordination with the livestock grazing permittee and affected interests:

- Evaluate the location of current key areas to determine if they are properly located to appropriately represent utilization and management in a given pasture.
- Establish additional key areas for long and short term monitoring.

i. Compliance Monitoring

Compliance monitoring is that information collected during the short-term, usually every year, in support of the ongoing implementation of livestock grazing practices and other actions in this

decision.

1. Vegetation

- Utilization levels for livestock in all areas of the allotment will not exceed 40% on key species of grasses identified for each key area as measured at the end of the grazing season. Utilization data would be collected following removal of cattle from the allotment. Utilization would be read on one or more major ecological sites in each pasture, and resulting data would be used to create use pattern maps. Utilization should include both pre- and post-livestock use to allow the discernment between wild horse and cattle use.
- Stubble heights in PPH areas measured on key grass species in the drip line of mountain, Wyoming, and basin big sagebrush do not drop below four inches by the end of the grazing season.

2. Riparian

- Stubble height will not be less than four inches on current year's herbaceous riparian growth at any time during the growing season (or by the end of the growing season) at perennial springs within the allotment; key species include sedges and rushes.
- Stubble height at Alkaline Meadows riparian will not be less than four inches at the end of the growing season

3. Soils

- Continue compliance with utilization guidelines to increase cover and litter for the protection of soils from erosion.

4. Wildlife

- Maintain at minimum a 4" stubble height of key upland perennial grass species (measured in the drip line of big sagebrush) at the end of the grazing season in PPH areas.

5. Other

- Precipitation levels and timing will be collected from the nearest weather stations.
- Actual use made by livestock will be collected from the livestock permittee after all livestock are removed from the allotment.
- Monitoring whether or not the terms and conditions of the grazing system are being followed.
- Monitoring of whether or not projects, including water developments and fences are maintained prior to turnout.
- Wild horse numbers will be determined as aerial census flights occur. Raw counts will be adjusted based upon USGS census models. Census information will be used to model wild horse life tables.

ii. Effectiveness Monitoring

Effectiveness monitoring is used to evaluate the long-term effects of implementing the decision related to meeting the objectives of the RMP and achieving Land Health Standards.

1. Vegetation

- Objectives
 - Increase density and cover of deep-rooted perennial grasses in all pastures of the allotment.
 - Achieve the Biodiversity Standard by meeting the Desired Plant Community objectives for the major ecological sites within the allotment.
- Methodology
 - Line-Point Intercept
 - Upland Range Health Assessment Protocol

2. Riparian

- Objectives
 - Maintain or progress towards PFC on key riparian areas.
 - Improve riparian functionality on Post Spring and Alkaline Meadow from functioning at risk with a downward trend to proper functioning condition.
 - Maintain proper functioning conditions at Biebe, Tuffy, and Indian Springs.
 - Improve riparian functionality on Sagehen Spring from non-functional to functional at risk with an upward trend.
 - Increase the percent meadow vegetation cover at Sagehen Spring to 85%.
- Methodology
 - Riparian Functional Assessment Protocol
 - Vegetation cover quadrats

3. Soils

- Objective
 - Improve or maintain soil stability by promoting deep rooted native perennial grasses; and continue progress towards achievement of rangeland health standard for soils at the sites used to evaluate Land Health conditions.
- Methodology
 - Line-Point Intercept
 - Upland Range Health Assessment Protocol

4. Wildlife

- Objectives
 - Improve grass cover and grass composition for sage-grouse, mule deer, pronghorn antelope, bighorn sheep, and pygmy rabbit within the allotment at the sites used to evaluate Land Health conditions. Monitor objectives using quantitative vegetation monitoring methods.
- Methodology
 - Line-Point Intercept
 - Upland Range Health Assessment Protocol
 - Riparian Functional Assessment Protocol

2. Wild Horse Management

The wild horse Appropriate Management Level (AML) is set at 25 – 45 head. Historically, wild horses use the Juniper Pasture for most of the year. Some horses tend to move into the East and West Seedings and the Lake Field during winter when snow covers forage in the Juniper Pasture. During the last six population inventories wild horses were not observed outside of the Juniper Pasture. However, some horses have been observed in the remaining pastures during normal ground compliance inspections in the winter. Therefore the AML for wild horses within the Massacre Lakes HMA includes an allocation of forage in the East and West Seedings and the Lake Field as well as the Juniper Pasture as shown in Table 3. The 20 head difference between the lower and upper limits of the AML will require BLM to conduct regular removals or take other measures to maintain the wild horse population within the AML range.

Table 3 Wild Horse Appropriate Management Level and Forage Allocation

HMA/Pasture	Appropriate Management Level	Primary Use Period	Estimated AUMs
Juniper Pasture	25 - 45	Yearlong	241 - 432
Lake Field/East Seeding	25 - 45	winter	45 - 80
West Seeding	25 - 45	winter	15 - 27
HMA Total	25-45	Yearlong	300 - 540

AUTHORITIES

The authorities under which this decision is being issued include the Taylor Grazing Act of 1934, as amended, the Federal Land Policy and Management Act of 1976, as promulgated through Title 43 of the Code of Federal Regulations (CFR) Subpart 4100 Grazing Administration - Exclusive of Alaska, and the Wild and Free Roaming Wild Horse and Burro Act of 1971, as amended.

My decision is issued under the following specific regulations contained in 43 CFR:

Livestock Grazing

- **§4100.0-8 Land use plans;** The Surprise RMP and the Black Rock-High Rock RMPs designate the Massacre Lakes allotment as available for livestock grazing. {§4100.0-8} states that “The authorized officer shall manage livestock grazing on public lands under the principle of multiple use and sustained yield, and in accordance with applicable land use plans. Land use plans shall establish allowable resource uses (either singly or in combination), related levels of production or use to be maintained, areas of use, and resource condition goals and objectives to be obtained. The plans also set forth program constraints and general management practices needed to achieve management objectives. Livestock grazing activities and management actions approved by the authorized officer shall be in conformance with the land use plan as defined at 43 CFR 1601.0-5(b).”

- **§4110.3 Changes in grazing preference.** states that “The authorized officer shall periodically review the permitted use specified in a grazing permit or lease and make changes in the permitted use specified in a grazing permit or lease and shall make changes in the permitted use as needed to manage, maintain or improve rangeland productivity, to assist in restoring ecosystems to properly functioning condition, to conform with land use plans or activity plans, or to comply with the provisions of subpart 4180 of this part. These changes must be supported by monitoring, field observations, ecological site inventory or other data acceptable to the authorized officer.”
- **§4130.3 Terms and Conditions** states that “Livestock grazing permits and leases shall contain terms and conditions determined by the authorized officer to be appropriate to achieve management and resource condition objectives for the public lands and other lands administered by the Bureau of Land Management, and to ensure conformance with the provisions of subpart 4180 of this part.”
- **§4130.3-1 Mandatory Terms and Conditions.** states that “(a) The authorized officer shall specify the kind and number of livestock, the period(s) of use, the allotment(s) to be used, and the amount of use, in animal unit months, for every grazing permit or lease. The authorized livestock grazing use shall not exceed the livestock carrying capacity of the allotment.” “(b) All permits or leases shall be made subject to cancellation, suspension, or modification for any violation of these regulations or of any term or condition of the permit or lease.” “(c) Permits and leases shall incorporate terms and conditions that ensure conformance with subpart 4180 of this part.”
- **§4130.2 Grazing permits or leases.** Grazing permits may be issued to qualified applicants on lands designated as available for livestock grazing. Grazing permits shall be issued for a term of 10 years unless the authorized officer determines that a lesser term is in the best interest of sound management;
- **§4180 Fundamentals of Rangeland Health and Standards and Guidelines for Grazing Administration.** This proposed decision will result in taking appropriate action to modifying existing grazing management in order to make significant progress toward achieving rangeland health. §4180.2(c)(1) states: “If a standards assessment indicates to the authorized officer that the rangeland is failing to achieve standards or that management practices do not conform to the guidelines, then the authorized officer will use monitoring data to identify the significant factors that contribute to failing to achieve the standards or to conform with the guidelines. If the authorized officer determines through standards assessment and monitoring that existing grazing management practices or levels of grazing use on public lands are significant factors in failing to achieve the standards and conform with the guidelines that are made effective under this section, the authorized officer will, in compliance with applicable laws and with the consultation requirements of this part, formulate, propose, and analyze appropriate action to address the failure to meet standards or to conform to the guidelines.”

Wild Horse Appropriate Management Level

- **§4700.0-6 Wild Horses and Burros Policy.**
 - (a) Wild horses and burros shall be managed as self-sustaining populations of

healthy animals in balance with other uses and the productive capacity of their habitat.

- (b) Wild horses and burros shall be considered comparably with other resource values in the formulation of land use plans.
- (c) Management activities affecting wild horses and burros shall be undertaken with the goal of maintaining free-roaming behavior.
- (d) In administering these regulations, the authorized officer shall consult with Federal and State wildlife agencies and all other affected interests, to involve them in planning for and management of wild horses and burros on the public lands.
- **§4710.3-1 Herd Management Areas.** Herd management areas shall be established for the maintenance of wild horse and burro herds. In delineating each herd management area, the authorized officer shall consider the appropriate management level for the herd, the habitat requirements of the animals, the relationships with other uses of the public and adjacent private lands, and the constraints contained in §4710.4. shall be established for maintenance of wild horse and burro herds."

PUBLIC INVOLVEMENT

The public was first notified of the project on September 27, 2007, and a scoping letter was sent to 85 interested publics of record. Eight comment letters were received in 2007. On January 17, 2008, a second scoping letter was sent to 66 interested publics of record. Five comment letters were received in 2008. May 15, 2009, a third Notice of Proposed Action (NOPA) and initiation of public scoping letter was sent to 205 interested publics of record. Thirteen comment letters were received in 2009

BLM met with local tribal groups to discuss this grazing permit renewal. Formal consultation between the BLM and the Fort Bidwell Tribal Council occurred on January 21, 2012, November 14, 2012, and March 9, 2013. Formal consultation between the BLM and the Summit Lake Paiute Tribal Council occurred on February 12, 2012, October 20, 2012, and March 16, 2012. Formal consultation between the BLM and the Cedarville Rancheria occurred on January 7, 2012 and February 26, 2013. This grazing permit renewal was open for discussion at each of these formal consultations.

Following the completion of the Land Health Determination and draft monitoring evaluation, the fourth Notice of Proposed Action/Scoping letter was sent out on April 7, 2010 to notify the interested publics of our findings and to request any additional input. Approximately 2,900 comments were received in 2010.

On May 2, 2012, Modoc-Washoe Experimental Stewardship Program (ESP) established a Technical Review Team ²(TRT) to review resource issues on the Massacre Lakes Allotment. This team included representatives for wildlife, environmental, livestock, wild horse and BLM. The TRT conducted field inspections, developed a grazing strategy and provided management

² A Technical Review Team is a group of interested members of the public and agency employees sanctioned by the Modoc-Washoe Experimental Stewardship Program to review resource issues related to management of public lands within the Surprise Field Office.

recommendations that are included in this EA as Alternative 3.

In September of 2012, Ms. Carla Bowers, “Wild Horse Advocate” and “Members of the Cedarville Community” presented BLM with the *Massacre Lakes “Natural” Study Herd Preservation Proposal*. This proposal included management recommendations for wild horses including a maximum AML, range improvements, access improvement, an academic research proposal, and public outreach. The Surprise Field Office staff met with Ms. Bowers in November 2012 and January 2013. Following those meetings, and in follow-up correspondence, Ms. Bowers agreed to revisions suggested by the Surprise Field Office of her proposal to better conform to management requirements from the Surprise RMP, management of WSAs, and other policies, regulations and laws. The Surprise Field Office staff has incorporated the revised proposal as Alternative 4 in this EA.

The Preliminary EA was made available for a 30 day public comment period in August 2013, during which approximately 14,500 comment letters were received. Approximately 1,000 additional comment letters were received after September 27th. Each comment letter contained one or more comments. *For example a letter supporting one alternative and opposing a second alternative contains two comments.* The vast majority of the comment letters were emails sent to the designated email address for EA comments. Less than ten comment letters were received through the mail.

Analysis of the comment letters revealed that they fell into several patterns:

- A two page comment letter was received from approximately 11,500 individuals during the comment period (an additional 960 letters were received after the comment period had closed) through the American Wild Horse Preservation Campaign (AWHPC) website. The site contained a form that allowed commenters to fill in their personal information and send the two page letter to the BLM email address. The website encouraged commenters to personalize the recommended language and analysis of comment letters revealed that approximately 200 individuals modified the recommended text by either adding additional language or elimination of portions of the language, but none of the modified language contained additional substantive comments. The address information provided by AWHPC was analyzed by locality. Comment letters were received from all 50 states, multiple US territories, many of the Canadian provinces and several European countries. However there were few comments received from the zip codes closest to the Massacre Lakes allotment (e.g. eastern Modoc County, California or northern Washoe County, Nevada).
- A comment letter containing five bulleted points was received via email from about 450 individuals during the comment period and a few times after the comment period. A search of unique language from the letter and information in the email header revealed that the bulleted points were developed by Ms. Carla Bower and distributed through the Cloud Foundation website and several wild horse blogs.
- There were additional comment letters received from approximately 170 individuals, groups and governmental entities. These comment letters varied considerably from an opinion based comment in an email subject line and no additional content to a comment letter whose attachments ran to hundreds of pages.

Based upon an analysis of all comment letters received, 32 unique comment letters were received. For these purposes, form letters were considered 1 comment letter. These are summarized in Attachment 1.

Each unique letter was analyzed for individual comments. A total of 214 comments were identified from the 32 letters. Because the individual comment statements were often lengthy, the comments were summarized into short concern statements. A total of 174 concern statements were identified. Each concern statement expressed an opinion about some aspect of the EA including alternatives or information used in the analysis, requested clarification about information in the EA, suggested changes to the EA alternatives or analysis. Attachment 2 provides the concerns and responses by category.

Comments that are substantive may require changes to the EA, while non-substantive comments do not require changes. Substantive comments are those that suggest the analysis is flawed in a specific way. Generally they challenge the accuracy of information presented, challenge the adequacy, methodology or assumptions of the environmental or social analysis (with supporting rationale), present new information relevant to the analysis, or present reasonable alternatives (including mitigation) other than those presented in the document. Such substantive comments may lead to changes or revisions in the analysis or in one or more of the alternatives. There may be many or no substantive comments in a letter. Non-substantive comments usually express an opinion or are outside the scope of the purpose and need for the EA. Examples include:

- Value-type comments that don't include justification or facts to back up the statement. (e.g.: "don't slaughter wild horses")
- Comments that don't pertain to the project or plan (e.g.: "Wild horses evolved on the North American continent").

In addition to the responses to substantive comments (e.g. concerns) provided in Attachment 1, the following changes to the EA were made based upon the comments.

- The Wild and Free Roaming Wild Horse and Burro Act of 1971, as amended, was added to section 1.4 Relationship to Statutes, Regulations, and Plans.
- An incorrect AUM number for wild horses was corrected in Table 2.1
- Additional alternatives were proposed but not fully analyzed as described in Section 2.7.
- The narratives in Section 3.2.6 related to the greater sage-grouse were edited to correct an error and clarify the use of a reference paper.
- Incorrect table references throughout the EA were fixed.
- Reference to the process of determining wild horse AMLs and the data used in that determination was added to Chapter 3.
- Information of use of Adaptive Management was added to actions common to all alternatives.
- Livestock trailing through the Massacre Lakes allotment by other permittees was added to the Proposed Action Alternative and evaluated in Chapter 3.

RATIONALE

Record of Performance

Pursuant to 43 CFR § 4110.1(b)(1), a grazing permit may not be renewed if the permittee seeking renewal has an unsatisfactory record of performance with respect to its last grazing permit. Accordingly, I have reviewed the records of the grazing permit holder for the Massacre Lakes Allotment and have determined that they have a satisfactory record of performance and are a qualified applicant for the purposes of a permit renewal.

Justification for the Final Decision

Based on my review of environmental assessment number DOI-BLM-CAN070-2013-0021-EA, the rangeland health assessment, evaluation, determination, specialist reports, and other documents in the grazing files, it is my decision to select the Proposed Action, Alternative 1 for the Massacre Lakes Allotment, without an enclosure fence at Sagehen Spring as my decision. I have made this selection for a variety of reasons, but most importantly because of my understanding that implementation of this decision will best fulfill the BLM's obligation to manage the public lands under the Federal Land Policy and Management Act's multiple use and sustained yield mandate, and will result in the Massacre Lake Allotment meeting or making significant progress toward meeting the natural resources and other objectives of the Surprise RMP and the Northeastern California/Northwestern Nevada Standards & Guidelines.

Sagehen Spring Enclosure

The Proposed Action Alternative and Alternative 4 both proposed installation of a 17.2 acre enclosure to protect Sagehen Spring source and the associated meadow from excessive wild horse use. Comments received recommended providing water for wild horses and livestock outside the enclosure and including the enclosure with outside water as part of Alternative 3.

Review of this recommendation from the public prompted a detailed review of the issues associated with Sagehen Spring by the Surprise Field Office interdisciplinary team. Sagehen Spring is located in the northern portion of the Juniper Pasture. It provides the most dependable water source in that portion of the pasture. The spring supports a meadow of approximately 4 acres that is locally important to wild horses, livestock, and wildlife species. Additionally the spring was pre-historically important to Native Americans. The proposed fence was intended to protect the spring source, entire meadow and the archaeological site from excessive grazing and allow the riparian area to improve properly functioning condition.

The determination that the riparian area is not in properly functioning condition was made during a period when wild horses in the Juniper Pasture were at least four times higher than the upper end of the AML range of 45 animals. Construction of fencing without water outside the enclosure is likely to result in horses damaging the fence to access the water source. Changing the scope of the project to include water outside the fence for horses and livestock would require excavation to bury the water piping and installation of a float valve system to ensure that water remains at the spring source to feed the meadow. In either case, regular inspection and maintenance would be required to allow recovery of the meadow. However access to Sagehen Spring is difficult due to its location in a remote area of the Massacre Rim WSA and the likelihood that the necessary inspection and maintenance would be carried out into the future is problematic.

I have decided to further monitor the conditions at Sagehen Spring following reduction of horses to within the AML and limiting livestock grazing to a short period of time in the pasture. If after four years after wild horses have been gathered down to AML, Sagehen Springs is not progressing towards the objectives set for Sagehen Springs that are outlined in the EA; the proposed exclosure project outlined in the Proposed Action would be implemented.

Issues Addressed in the Environmental Assessment

- 1) What grazing management practices should be implemented to:
 - Improve vigor and production of native deep-rooted perennial grasses in all pastures of the allotment.
 - Ensure adequate residual cover for nesting greater sage-grouse.
 - Improve water quality and riparian health at spring meadows in the Juniper Pasture and Lake Field?

Implementation of the Proposed Action Alternative, without the Sagehen exclosure, would allow for improvement of vigor and production of perennial grasses throughout the allotment through the implementation livestock grazing management practices and managing wild horse numbers to an AML range of 25 to 45. This would provide substantial decreases in livestock and wild horse grazing during the critical growth period by establishing defined periods of livestock deferment or rest and decreasing allowable livestock utilization levels. These practices will also lead to improvements in nesting cover for greater sage-grouse. Scheduling of livestock use in the Lake Field and decreasing wild horses to the established AML range would reduce overall grazing on the alkaline meadow complex. Spring meadows in the Juniper Pasture should benefit from a very short livestock use period and decrease wild horse numbers. It is anticipated that implementation of this decision would lead to meeting all the applicable Land Health Standards.

Implementation of Alternative 5, No Grazing, would also be expected to successfully address this issue. Lack of grazing by either wild horses or livestock would allow for improvements in native perennial grasses in all pastures that would result in improve sage-grouse nesting habitats. Additionally implementation of this alternative would lead to rapid improvements in water quality and riparian conditions in both the Juniper Pasture and Lake Field.

Implementation of Alternative 4, Allocation by Pasture, would partially address this issue. The changes in livestock grazing management practices would lead to improvements in perennial grasses in four of the five pastures that would also improve sage-grouse nesting cover and result in improvements in the Lake Field riparian areas. However even without livestock grazing in the Juniper Pasture, yearlong grazing by up to 130 wild horses would not allow for improvements in perennial grasses or improved water quality and riparian health. Sage-grouse nesting habitats would not be expected to measurably improve.

Implementing Alternative 3, the TRT alternative, would not clearly address this issue. While the alternative includes some desirable practices including a 40% livestock utilization limit, the possibility of livestock turnout in April and uncertainty regarding rest or deferment of livestock during the critical growth period for perennial grasses make it difficult to determine whether or not this issue can be adequately met. The TRT alternative provided for no reductions in permitted use even though the data available during the formation of the TRT alternative clearly

showed that the allotment could not currently support the full permitted use and progress towards Land Health Standards. Additionally, the flexibility of the permittee determining the pasture rotation on a yearly basis under this alternative results in not being able to quantify the impacts of the grazing systems to soils, water quality, and wildlife habitats in an allotment where land health standards are not currently being met or progressing towards being met.

2) What actions are needed to manage archaeological resources in the Massacre Rim ACEC and the historic landscape associated with the Applegate-Lassen Emigrant trail within the Black Rock-High Rock NCA?

Implementation of the proposed action would reduce the number of livestock AUMs and the number of wild horses utilizing the Massacre Allotment which will also reduce impacts to cultural resources, especially those cultural resources that are in areas where livestock and wild horses tend to congregate. Although the Sagehen Spring enclosure will not be implemented at this time, the reduction in use by livestock and wild horses are likely to reduce the severity of impacts to cultural resources in the vicinity. Additionally, cultural resources within the allotment that are eligible for the National Register of Historic Places will continued to be monitored to assess their condition and will provide information regarding whether the Sagehen Spring enclosure would be needed in the future.

Implementation of Alternatives 2, 3, and 4 would not adequately address the direct impacts (e.g. trailing through archaeological sites, trampling artifacts, wallowing in archaeological sites) and indirect impacts (e.g. erosion due to denuded vegetation or impaired springs) that effect cultural resources due to utilization of the allotment by livestock and wild horses. Alternatives 3 and 4 would partially address this issue. However, under Alternative 3, impacts to cultural resources in areas where livestock tend to congregate would continue at the current rate which could reduce their eligibility to the National Register in the future. Under Alternative 4, impacts to cultural resources around springs preferred by wild horses (e.g. Sagehen) would potentially increase due to an increase in AUM use by wild horses.

Implementation of Alternative 5 would have the most benefits to cultural resources in the allotment as the direct and indirect impacts to cultural resources from livestock and wild horse utilization would be drastically reduced.

Implementation of the Proposed Action and other Alternatives would allow maintenance of the historic landscape associated with the Applegate-Lassen Emigrant trail corridor within the southern portion of the allotment. Congress and the Black Rock-High Rock NCA RMP found that sustainable livestock grazing that allows achievement of Land Health Standards remains an appropriate use of the land. Livestock grazing in the area is a dispersed activity that, when applied conservatively, would not result in changes to the historic landscape.

3) What is the Appropriate Management Level for wild horses that provides for a healthy, viable horse herd and healthy rangelands?

Implementation of the Proposed Action alternative AML range of 25-45 wild horses would provide for a healthy, viable horse population and allow Land Health standards to be met. While

this AML range is less than the recommended 150 horse minimum, managing the Massacre Lakes HMA as part of a complex of four HMAs with an AML range of 85 to 150 horses will substantially decrease any risks of loss of genetic diversity. Additionally, collection of genetic information during gathers would provide necessary information regarding whether or not to periodically release mares from other areas into the HMA to increase genetic diversity.

Implementation of Alternatives 2 and 3 would provide similar opportunities for wild horses as the Proposed Action. Implementation of the No Grazing alternative would not adequately address this issue.

Implementation of Alternative 4, Allocation by Pasture, would partially address this issue. An AML range of 100 – 130 would allow for a healthy, viable herd with less risk of decreased genetic diversity, but the analysis of wild horse impacts on other resources in the EA indicates that healthy rangelands in the Juniper Pasture would not be achieved.

4) What is the impact of changes in livestock and wild horse grazing practices on local social and economic conditions?

Implementation of the Proposed Action alternative would provide a balance of positive and negative impacts on both livestock and wild horses within the Massacre Lakes allotment and HMA. Continuing to allocate forage to both livestock and wild horses is consistent with the decisions in the Surprise and Black Rock-High Rock RMPs. The changes in livestock grazing management practices proposed in the alternative would allow for the continuation of grazing by cattle at a level that is sustainable for the natural resources of the allotment and maintains the economic viability of the permittees livestock operation. It is recognized the implementation of the alternative would result in increased operating costs to the permittee with a decreased forage harvest. Maintaining a wild horse population within an AML range of 25 to 45 within the HMA would allow for continued use of the area by a sustainable wild horse herd. While this AML range is less than the number recommended for maintenance of long-term genetic diversity, managing the HMA as part of a complex with three other HMAs and the availability of other wild horse management tools will allow Massacre Lakes wild horses to maintain healthy conditions.

Implementation of any other four alternatives would not maintain the same balance of positive and negative impacts to local social and economic conditions. Alternative 2, Continue Present Management, and Alternative 3, the TRT Alternative, are not considered economically sustainable due to high likelihood for continuing the trend of declining range conditions. Alternative 4, Allocation by Pasture, would increase wild horse use while decreasing livestock grazing use when compared to present conditions or levels proposed in the Proposed Action or TRT alternatives. While the alternative would probably maintain an economically sustainable livestock operation, the year round presence of up to 130 wild horses in the Juniper Pasture would not maintain a sustainable wild horse herd in the HMA because the Pasture is not likely to meet Land Health Standards. Alternative 5, No Grazing, would result in negative social and economic conditions for both livestock grazing and wild horses and is inconsistent with the decisions of the RMPs.

Summary

Implementation of the Proposed Action, without an exclosure at Sagehen Spring, cumulatively best addresses the purpose and need for this action and all the issues developed for the EA. It is recognized that the Proposed Actions forage allocation to livestock is greater than the allocation to wild horses, which is inconsistent with the requests of many of the comments received from supporters of wild horses. However, my decision is not based upon the false dichotomy that the decision for the Massacre Lakes Allotment and Massacre Lakes HMA is one of cattle versus horses. This decision is being made to allow the Massacre Lakes Allotment and HMA to be managed in a manner that allows achievement of the Land Health Standards and leads to meeting land use objectives of the Surprise and Black Rock-High Rock RMPs.

RIGHT OF PROTEST AND/OR APPEAL

Livestock Grazing

Any applicant, permittee, lessee or other person whose interest is adversely affected by the livestock grazing portions of this proposed decision may file a protest under the provisions of 43 CFR §4160.1, in person or in writing to the Surprise Field Manager, PO Box 460, Cedarville, California 96104 within 15 days after receipt of such decision. The protest, if filed, should clearly and concisely state the reason(s) as to why the proposed decision is in error.

In the absence of a protest, the Proposed Decision will become the Final Decision of the authorized officer without further notice unless otherwise provided in the Proposed Decision. In the event one or more protests are received, the authorized officer will consider the protest points and issue a final decision.

Any applicant, permittee lessee or other person whose interest is adversely affected by the livestock grazing portions of a final decision may file an appeal and petition for stay of the decision pending final determination on appeal. The appeal must be filed the Surprise Field Manager, PO Box 460, Cedarville, California 96104, as noted above, within 30 days following receipt of the final decision, or 30 days after the date the proposed decision becomes final. The appeal shall state the reasons, clearly and concisely, why the appellant thinks the final decision is in error and otherwise comply with the provisions of 43 CFR §4.470 which is available online from the BLM office for your use in a BLM office.

In accordance with 43 CFR§ 4.470, §4160.3(c) and §4160.4, any person whose interest is adversely affected by a final decision of the authorized officer may appeal the decision for the purpose of a hearing before an administrative law judge. The appeal must be filed within 30 days after the date the proposed decision becomes final or 30 days after receipt of the final decision. In accordance with 43 CFR§ 4.470, the appeal shall state clearly and concisely the reason(s) why the appellant thinks the final decision of the authorized officer is wrong.

Pursuant to 43 CFR §4.471 and §4160.3(c), an appellant also may petition for a stay of the final decision pending appeal by filing a petition for stay along with the appeal within 30 days after the date the proposed decision becomes final or 30 days after receipt of the final decision. In

accordance with 43 CFR §4.21(b)(1), a petition for stay, if filed, must show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied.
- (2) The likelihood of the appellant's success on the merits.
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

43 CFR §4.471(d) provides that the appellant requesting a stay bears the burden of proof to demonstrate that a stay should be granted.

The appeal and any petition for stay must be filed at the office of the authorized officer, Field Manager, Surprise Field Office, P.O. Box 460, Cedarville, CA 96104. At this time, the BLM will not accept protests or appeals sent by electronic mail. Within 15 days of filing the appeal and any petition for stay, the appellant also must serve a copy of the appeal, and any petition for stay, on any person named in the decision and listed at the end of the decision, and on the Office of the Solicitor, Regional Solicitor, 2800 Cottage Way, Room E-1712 Sacramento, California 95825-1890.

Any person named in the decision from which an appeal is taken (other than the appellant) who wishes to file a response to the petition for a stay may file with the Hearings Division in Salt Lake City, Utah, a motion to intervene in the appeal, together with the response, within 10 days after receiving the petition. Within 15 days after filing the motion to intervene and response, the person must serve copies on the appellant, the Office of the Solicitor and any other person named in the decision (43 CFR §4.472(b)).

At the conclusion of any document that a party must serve, the party or its representative must sign a written statement certifying that service has been or will be made in accordance with the applicable rules and specifying the date and manner of such service (43 CFR §4.422(c)(2)).

Wild Horse Management

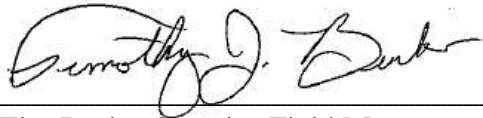
Within thirty (30) days of receipt of this decision for wild horse management, you have the right of appeal to the Board of Land Appeals, Office of the Secretary, in accordance with the regulations of 43 CFR §4.4 and 43 CFR §4770.3 . If an appeal is taken, the procedures outlined in the BLM form, 1842-1, *Information on Taking Appeals to the Board of Land Appeals* must be followed. The form is available online at:

http://www.blm.gov/pgdata/etc/medialib/blm/id/nepa.Par.14174.File.dat/BLM_1842-1_508.pdf

The appeal and any petition for stay must be filed at the office of the authorized officer, Field Manager, Surprise Field Office, P.O. Box 460, Cedarville, CA 96104. At this time, the BLM will not accept protests or appeals sent by electronic mail. Within 15 days of filing the appeal and any petition for stay, the appellant also must serve a copy of the appeal, and any petition for stay, on any person named in the decision and listed at the end of the decision, and on the Office of the Solicitor, Regional Solicitor, 2800 Cottage Way, Room E-1712 Sacramento, California 95825-1890. Within thirty (30) days after your appeal, you are required to provide a statement of

Reasons to the Board of Land Appeals and a copy to the Sacramento Office of the Regional Solicitor the address listed above.

SIGNATURE

A handwritten signature in black ink, appearing to read "Timothy J. Burke". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

Tim Burke, Surprise Field Manager

May 8, 2014

Date

Attachment 1: Unique Comment Letters

ID #	Commentor	Affiliation	Notes
1	Suzanne Roy	American Wild Horse Preservation Campaign	First example of ~11 ,500 letters
2	Denise DeLucia	Youth Equine Alliance	
3	Kathleen Hayden		
4	Christie Finn		
5	Carla Bower		
6	Bonnie Kohleriter		
7	Elyse Gardner		
8	Will & Debra Cockrell	Cockrell Ranches	
9	Gene & Wynarda Erquiaga	Erquiaga Ranches	
10	Dorothy Nylen	Wild Horse Preservation League	
11	Craig Downer		
12	Marybeth Devlin		
13	Michael Conner	Western Watershed Project	
14	Sue Kelso-Haines		
15	Otto Huffman	Modoc County Farm Bureau	
16	Bill Phillips		
17	Kathy Smith	Surprise Valley Chamber of Commerce	
18	Kathy Smith		
19	Mark Freese	Nevada Department of Wildlife	
20	Geri Bryne	Modoc County Board of Supervisors	
21	Suzanne Roy	AWHPC	Letter in 8 parts containing multiple attachments
22	Nicole Hornberger		1 st example of ~450 letters containing 5 bullets
23	Kathleen Hayden		
24	Sherry Oster		
25	Jessica Johnston		
26	Deniz Bolbol		
27	Patricia Fazio		
28	Kathy Gregg		
29	Ginger Kathrens	The Cloud Foundation	
30	Various		Approximately 200 letters with no substantive comments, but all supporting increased wild horse

ID #	Commentor	Affiliation	Notes
			populations, less management actions, inhumane treatment of horses, priority of horses over other uses on public land.
31	Anonymous		Letter received by mail with no author
32	Barbara Maat		

Attachment 2: Summary of Concerns Expressed during EA Comment Period and Responses